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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,963	12/10/2001	David Famolari	APP 1425-US	6945
9941	7590	09/10/2004	EXAMINER	
TELCORDIA TECHNOLOGIES, INC. ONE TELCORDIA DRIVE 5G116 PISCATAWAY, NJ 08854-4157			STEELMAN, MARY J	
			ART UNIT	PAPER NUMBER
			2122	

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/015,963

Applicant(s)

FAMOLARI, DAVID

Examiner

Mary J. Steelman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-16 are pending.

#### *Specification*

2. The use of the trademark BLUETOOTH has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### 7.35.01 Trademark or Trade Name as a Limitation in the Claim

Claims 1-6, 10-13, 15, and 16 contain the trademark/trade name BLUETOOTH. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods,

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and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe short-range radio enabled communication devices and, accordingly, the identification/description is indefinite.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PreGrant Publication 2002/0163895 A1 to Haller et al., in view of US Patent 5,933,647 to Aronberg et al.

Per claims 1, 3, and 12:

---updating software resident on a first plurality of computing devices each having a first interface that is connectable to a first network,

Haller disclosed a plurality of computing devices (Fig. 1, #107 Terminals), having an interface connectable to a first network (Fig. 1, #110, Short Range Radio Signals (Bluetooth)). Haller disclosed the need to update the software on the plurality of computing devices. [0043], "...gateway device 106 and one or more terminals 107 communicate to form a personal area network ("PAN")" [0095-096], "When a new terminal is introduced to a PAN, the software to

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support this terminal needs to be located, downloaded and executed. The Plug and Play component is responsible for identifying the introduction of the new terminal and decide on the software needed to be downloaded.”

-the first network having a first address to which an updated version of the software is resident, Heller disclosed [0097], “In response to a terminal ID from PAN router, Plug and Play component will access the software package for a selected terminal from backend middleware or locally...if the selected package is not locally available in gateway device memory, a URL (address to which updated version of software is resident) is provided...”

-determining, through a first Bluetooth message, the existence of a first subset, if any, of the devices on which a non-updated version of the software is resident;

Heller disclosed the Bluetooth radio communication between the gateway device and the terminals within the PAN. [0095], The Plug and Play component is responsible for identifying the introduction of the new terminal and decide on the software needed to be downloaded. The PnP determines whether the device needs software.

-informing each device in the first subset, through a second Bluetooth message, of the first address;

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[OO48], "...server 101 and 102 provides information, such as web pages or application software components to terminals 107 by way of gateway device 106...terminals 107 share services and communicate by way of gateway device 106"

-command each device in the first subset, through a third Bluetooth message, to download the updated version from the first address.

Haller disclosed, [0093] PAN server loads an executable application software component to a selected terminal... Haller failed to disclose that the terminals download the updated version from the first address. However Aronberg disclosed (Abstract, lines 1-8) '...distributing software in a customized configuration, to pre-selected computers in a network environment...The workstation running the console creates distribution control information which dictates how the software is distributed and to what agent based workstations under a given set of conditions...', col. 4, lines 51-58, "Each agent 103, 104, detects a newly scheduled application, and evaluates the condition for distribution to see if the distribution to it is appropriate. If the distribution is appropriate for a particular agent, that agent pulls down the distribution, i.e., the agent performs the actual distribution." Thus Aronberg disclosed the terminal devices pulling down software to achieve an update.

Therefore, it would have been obvious, to one of ordinary skill in the art, at the time of the invention, to modify Haller's disclosure of updating software on terminal devices, via short range radio links to a gateway device, by enforcing conditions to group terminal devices and causing them to pull down update software, because network updates are well known in the art. Simultaneous updates, well known in the art, are efficient. Furthermore, a pull down technique,

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whereby the destination terminal devices instigate the retrieval of the update is known in the art, and thus would be obvious. Haller disclosed a part of the system as being BLUETOOTH enabled, however, it is merely another communication linking technique, in a larger networked system that performs software updating.

Per claims 2, 4, and 13:

-first plurality of devices form part of a larger second plurality of devices each having the first interface,

Haller disclosed devices (Fig. 1, #107-terminals), such as [0043], “terminals are a desktop computer (a first plurality of devices), a laptop computer, a personal digital assistant, a headset, a pager (terminals together form a part of a larger second plurality of devices)...terminals include a Bluetooth™...transmitter/receiver...”, “terminals communicate to form a personal area network (“PAN”) (the first interface).

-interrogating the second plurality of devices with a Bluetooth inquiry to seek responses from devices that contain the software, whereby only the first plurality of devices respond to such inquiry.

Haller disclosed [0095], “...when a new thin terminal...is introduced to a PAN (second plurality of devices)...The appropriate software package needs to be found...The Plug and Play component will identify the messaging terminal and resolve the needed software...” Haller disclosed that Bluetooth radio frequency could be used in communications.

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Per claim 5:

-executed with a handheld Bluetooth terminal.

Haller disclosed devices (Fig. 1, #107-terminals), such as [0043], “terminals are...a personal digital assistant, a headset, a pager (terminals include handheld devices)...terminals include a Bluetooth<sup>TM</sup>...transmitter/receiver...”

Per claim 6:

-terminating the Bluetooth connection to each device that is not part of the first subset.

Haller disclosed [0106-0109], “...management software component 703 provides a disconnect service function that forces specific applications to disconnect from a specific service...from all services of a specific terminal...a disable service function that halts any usage of a specific terminal’s service...a disable terminal function that halts any usage of all services of a specific terminal...”

Per claims 7, 8, and 14:

-subdividing the first subset into groups of no more than X devices each, and in which the instructing step is accomplished sequentially group by group /  $X = 7$ .

Haller failed to disclose subdividing into groups of 7. However Haller did disclose a PAN [0043]. A web supplied definition of ‘piconet’ is “A network of devices connected in an ad hoc fashion using Bluetooth technology. A piconet is formed when at least two devices, such as a portable PC and cellular phone connect. A piconet can support up to eight devices (gateway device and seven terminals ( $X=7$ )). When a piconet is formed, one device acts as the master



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(gateway device) while the others act as slaves (seven terminals) for the duration of the piconet connection. A piconet is sometimes called a PAN.

Per claim 9:

-informing step is accomplished sequentially group by group in timed relation to the commanding step.

Haller disclosed [0022], “The wireless gateway device provides access to the Internet for the first and second wireless devices”, [0048], “...server 101 and 102 provides information, such as web pages or application software components to terminals 107 by way of gateway device 106. In an embodiment of the present invention terminals share services and communicate by way of gateway device 106.” Groups communicate with gateway device to acquire the address of an updated version.

Haller was not specific regarding group updates. Aronberg provided more details regarding updating. Col. 2, lines 2-4, “allow distributions based on any combination of several criteria, including...group membership...Moreover, the present invention has the ability to vary an installation at distribution time (timed relation) based on any of the above criteria...”

Therefore, it would have been obvious, to one of ordinary skill in the art, at the time of the invention, to modify Haller’s disclosure of updating software on terminal devices, via short range radio links to a gateway device, by enforcing conditions to group terminal devices, because network updates are well known in the art. Simultaneous, grouped, timed updates, well known in the art, are efficient, and thus obvious.

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Per claims 10 and 15:

-terminating the respective Bluetooth connections to the devices of each group after execution of the commanding step associated with that group.

Haller disclosed termination techniques [0105-0110].

Per claims 11 and 16:

-placing the devices of each group in a Bluetooth PARK mode prior to the start of the commanding step associated with that group, and placing such devices in a Bluetooth active mode at the start of the associated commanding step.

Haller disclosed [0141-0142] techniques to prevent terminal usage. Devices may be enabled or disabled as desired by management component.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Note:

US PreGrant Publication 2003/0182414 A1 to O'Neill (Updating wireless devices from a server, simultaneously, selectively.)

US PreGrant Publication 2002/0093923 A1 to Bouet (Downloading using wireless short range devices; piconet with seven slave devices.)

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Steelman, whose telephone number is (703) 305-4564. The examiner can normally be reached Monday through Thursday, from 7:00 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mary Steelman



09/02/2004



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PRIMARY EXAMINER